

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 1211 of 2004 (M/S)

Vishnu Dutt Bakshi,
S/o Late Shri Amar Nath Bakshi,
R/o Wing No. 7,
Barrack No. 2/1, Prem Nagar,
Dehradun Petitioner

Versus

Civil Judge (Junior Division)
Dehradun and another Respondents

Mr. V.K. Kohli, Senior Advocate assisted by
Mr. I.P. Kohli, learned counsel for the petitioner.
Mr. Nand Prasad, learned Standing Counsel for respondent No.1.

Hon'ble Prafulla C. Pant, J.

This writ petition has been filed by the defendant/petitioner under Article 227 of the Constitution of India, challenging the findings of a preliminary issue relating to valuation of suit and insufficiency of court fee, decided by the learned trial Court in negative in original suit No. 277 of 1999.

2) Heard learned counsel for the petitioner.

3) Earlier also the issue on the same point of valuation and court fee was decided by the trial Court on 21st May, 2003. From the record it appears that a civil revision No. 18 of 2003 was filed against the said findings and after hearing the parties the revision was dismissed on 01.12.2003. Admittedly, thereafter defendant/petitioner filed earlier a writ petition No. 20 (M/S) of 2004 challenging both the aforesaid order and said writ petition was disposed of by another Bench of this Court on

17.08.2004 directing the trial Court to frame the issue a fresh on valuation and court fee and to decide the same.

4) Copy of the impugned order shows that the learned trial Court in compliance of the High Court's Order dated 17.08.2004 reframed the issue relating to valuation and court fee and after recording evidence of the parties again decided the issue in negative on 30.10.2004, aggrieved by which present petition has been filed.

5) In the circumstances as narrated above, this Court is of the view that in exercise of its powers under Article 227 of the Constitution of India, this court is not supposed to act as an Appellate Court to disturb the findings, particularly in a case where findings on valuation and court fee had already become final in the earlier round of litigation and was not set aside by any Court. From the perusal of the findings given in the order-sheet, I see no illegality in the order passed by learned trial Court.

6) In the circumstances, in view of the above discussion, this Court is not inclined to interfere with the impugned order passed by learned trial Court. The writ petition is dismissed in limine.

(Prafulla C. Pant, J.)

Dt.: 17th November, 2004

H.Negi